

Evaluation Guidelines

Electronic Bonding Technologies



Surety Association of Canada



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Evaluation Guideline:

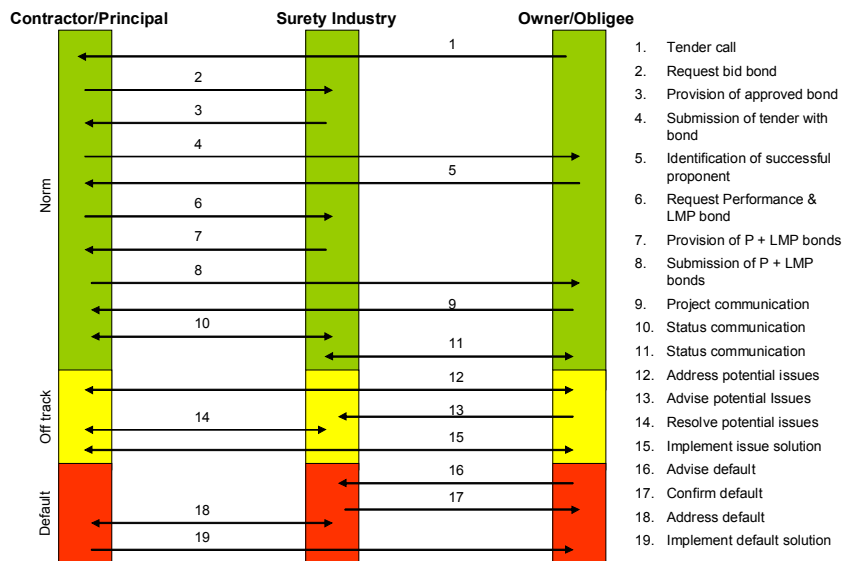
Electronic Bonding Technologies

The Surety Association of Canada ("SAC") is a professional industry association consisting of 60 surety companies, re-insurance companies, independent surety brokers and professional organizations that are involved in the vast majority of surety bond transactions in Canada. In recent years, there has been a growing awareness of the potential for transactions to be conducted electronically. SAC supports the electronic creation, execution, delivery and storage of surety bonds. Electronic processes yield benefits to all parties of the bond transaction, such as reduced processing costs and greater efficiency. However, any electronic process must not lose sight of the fact that a bond is a deed and all necessary elements to ensure authenticity for enforcement must be preserved when the process moves from a physical to an electronic environment.

The Bond Execution Process

A surety bond is a three party agreement whereby the surety guarantees that one party (the principal) will perform its obligations owed to another (the obligee). Both the surety and the principal are liable to the obligee. Therefore, both the surety and principal sign and seal the bond. When the bond is a paper document, using a contract model in a request for tender environment for bid bonds, the surety process is generally aligned to the following steps:

Contract Surety Bonds: Basic Process (Bidding Environment)



Within the surety industry (workflow #2 and #3), the following is the typical process:

- Surety company prequalifies surety broker to establish power of attorney arrangements. Once this standing authority is in place, the surety broker completes the necessary information on the bond form as requests from principal are received;
- Surety broker signs and seals the bond on behalf of the surety authenticating its validity;
- Surety broker sends the bond form to the principal.

An electronic methodology should not force shifts away from accountabilities that are standard in the marketplace today.

Electronic Bond Execution Process

A major interest to sureties is that bond obligees implement methodologies that are not restricted to a technology provided by a specific vendor. Sureties desire the ability to choose the technology or vendor that best meets its needs rather than be required to use a particular vendor. If sureties are to have a choice, it is crucial that competition is fostered and several vendors enter and remain in the surety bond execution market. SAC seeks to assist vendors by providing guidance as to the special needs of sureties. Specifically, in order to provide a viable electronic bond execution process, technology providers must be aware of the special needs of sureties in this regard. This guideline presents a checklist of those needs.

Possible methodologies for bond execution include:

- Transmitting an electronic bond with digital signatures and seals using secure messaging technology; and
- Executing a bond electronically through a web based bond clearinghouse or "virtual signing room."

Checklist of Required Characteristics

Any electronic bonding methodology should possess the following essential characteristics:

- The methodology maintains the existing legal relationships and obligations among the parties, inclusive of the civil code in Quebec.
- The filing process ensures the validity and non-repudiation of all aspects of the bond transaction.
- The methodology includes or permits the inclusion of the language of the obligation and the signature of the surety and principal using electronic or digital signature technology.
- Permits the signing by two or more different parties at different points in time.

- Provides assurance to obligee that, aside from its signature, the principal has not altered the bond transaction.
- Can accommodate the incorporation of unalterable electronic powers of attorney, which must be granted by the surety which will assist in ensuring the identity and authority of the surety's authorized signatory.
- The electronic bond transaction can be stored and retrieved freely by all authorized parties to the transaction.
- The bond transaction must be stored in a secure manner to avoid repudiation and tampering.
- The methodology and treatment of data and content is consistent with and not in violation of the *Personal Information Protection and Electronic Documents Act* (PIPEDA) or any provincial/territorial electronic documents and commerce legislation.
- To meet the requirement that an electronic bond be sealed, the person executing the bond should be required to undertake a specific and unequivocal act, in addition to signing the bond, indicating that the person doing so intends the electronic bond to take effect under seal.
- Utilization and alignment with a common database of ID codes for sureties, brokers, obligees and principals.
- Acknowledgement and respect to the relationship protocol between the parties of the bond and further and particularly between the surety and its brokers inclusive of the authorization protocol within those entities.

Charges, costs and any fees for use must be in accordance with standards and guidelines set by the industry as represented by the Surety Association of Canada and its members, a designated group of industry vendors and such knowledgeable third parties as identified by the association. The following are suggested characteristics:

- Integrates with the variety of systems and processes of the various parties involved in the bond transaction.
- Permits the use of a trusted third party to certify the delivery and signature.

SAC representatives are willing to meet and discuss these characteristics with any vendor interested in serving the surety bond market.